

STATE OF MICHIGAN
COURT OF APPEALS

SUSAN SHIELDS,

Plaintiff-Appellant,

v

CURTIS BLESSING and AMANDA VAN
DUSEN,

Defendants-Appellees.

UNPUBLISHED

August 30, 2005

No. 261685

Oakland Circuit Court

LC No. 03-053202-NZ

Before: Hoekstra, P.J., and Markey and Kelly, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

Plaintiff was employed by Cranbrook Schools as a fifth grade teacher at its elementary school during the 2001-2002 school year. Defendants are the parents of a student who was in plaintiff's class. In October 2001, defendants contacted the school headmaster regarding concerns they had with plaintiff's teaching methods. A series of contentious meetings and communications between defendants and plaintiff and other school administrators occurred over the next three months. In January 2002, defendants' daughter was assigned to another teacher. Evidence was submitted indicating that during the remainder of the 2001-2002 school year, school administrators confronted plaintiff about a number of other matters of concern, unrelated to defendants' daughter. In a letter dated June 19, 2002, the school informed plaintiff that she was being terminated from her teaching position for insubordination, specifically, for failing to attend two scheduled meetings to resolve an issue related to her use of a school-issued purchasing card. Plaintiff subsequently brought this lawsuit alleging that defendants tortiously interfered with her employment contract. However, finding that there was no genuine issue of material fact whether defendants engaged in an unjustified instigation of any alleged breach, the trial court granted summary disposition in favor of defendants.

This Court reviews de novo a trial court's decision regarding a motion for summary disposition. *Trost v Buckstop Lure Co*, 249 Mich App 580, 583; 644 NW2d 54 (2002). A motion under MCR 2.116(C)(10) tests the factual support for a claim. *Lewis v LeGrow*, 258 Mich App 175, 192; 670 NW2d 675 (2003). In reviewing the motion, a court "must consider the available pleadings, affidavits, depositions, and other documentary evidence in a light most favorable to the nonmoving party and determine whether the moving party was entitled to

judgment as a matter of law.” *Unisys Corp v Comm’r of Ins*, 236 Mich App 686, 689; 601 NW2d 155 (1999).

In order to establish a claim for tortious interference with a contract, a plaintiff must demonstrate each of the following: “(1) a contract; (2) a breach, and (3) an unjustified instigation of the breach by the defendant.” *Mahrle v Danke*, 216 Mich App 343, 350; 549 NW2d 56 (1996). At issue here is whether plaintiff has put forth evidence sufficient to create a genuine issue of material fact regarding the latter of these elements, i.e., an unjustified instigation by defendants of the alleged breach of her employment contract with Cranbrook. In order to meet this requirement it was incumbent upon plaintiff to show “the intentional doing of a per se wrongful act or the doing of a lawful act with malice and unjustified in law for the purpose of invading the contractual rights or business relationship of another.” *CMI Int’l, Inc v Internet Int’l Corp*, 251 Mich App 125, 131; 649 NW2d 808 (2002), quoting *Feldman v Green*, 138 Mich App 360, 378; 360 NW2d 881 (1984). In her complaint, plaintiff alleged that defendants interfered with her employment contract by challenging her personal and professional competency, and demanding that she be dismissed from her position as a teacher on those grounds. However, this Court has held that a person is not liable for tortious interference with a contract if the conduct alleged to have instigated the breach was motivated by legitimate personal or business interests. See *Wood v Herndon & Herndon Investigations, Inc*, 186 Mich App 495, 500; 465 NW2d 5 (1990). As explained below, we agree with the trial court that the evidence presented below failed to show the requisite per se wrongful or improperly motivated conduct.

A wrongful act per se is an act that is inherently wrongful or that can never be justified under any circumstances. *Prysak v R L Polk Co*, 193 Mich App 1, 12-13; 483 NW2d 629 (1992). Here, the evidence presented below showed that defendants held legitimate concerns regarding plaintiff’s teaching methods and acted upon those concerns by seeking plaintiff’s dismissal from Cranbrook. Although defendants conduct in seeking to resolve their concerns could be considered unprofessional or unbefitting at times, defendants nonetheless had both an interest and a right to see that their child was being competently taught. See, e.g., *Swenson-Davis v Martel*, 135 Mich App 632, 636; 354 NW2d 288 (1984). Therefore, there is no basis for concluding that defendants’ actions were inherently wrongful. *Prysak, supra*.

The evidence similarly does not permit a conclusion that defendants engaged in a lawful act with malice and unjustified in law for the purpose of invading plaintiff’s contractual rights. As noted above, the evidence shows that the conduct on which plaintiff relies to support her claim of tortious interference arose from and was motivated by defendants’ sincere concern regarding the efficacy of their child’s education under plaintiff’s tutelage. That defendants’ conduct in seeking a solution to those concerns was not otherwise improperly motivated is evidenced by a letter written shortly after their daughter’s reassignment, wherein defendants expressed their appreciation of the school’s “efforts in implementing the solution upon which [the parties had] agreed,” as well as their intent to concentrate on “looking forward” to the upcoming semester at Cranbrook, “not back.” Given this evidence, as well as that indicating that plaintiff’s employment with Cranbrook was not terminated until approximately six months after defendants expressed their satisfaction with resolution of their concerns, we find no error in the

trial court's decision to grant defendants' motion for summary disposition on the ground that there was no genuine issue of material fact whether defendants engaged in an "unjustified" instigation of any alleged breach.¹ *Wood, supra*.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Kirsten Frank Kelly

¹ In light of our conclusion in this regard, we need not address the question of proximate cause. Moreover, because there was no fair chance that further discovery would result in factual support for plaintiff's action, the fact that discovery was not complete when defendants first moved for summary disposition does not compel a contrary conclusion. *Ireland v Edwards*, 230 Mich App 607, 623; 584 NW2d 632 (1998).